DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION



BRIAN SCHWEITZER GOVERNOR

DIRECTOR'S OFFICE (406) 444-2074 TELEFAX NUMBER (406) 444-2684

STATE OF MONTANA

WATER RESOURCES DIVISION (406) 444-6601
TELEFAX NUMBERS (406) 444-0533 / (406) 444-5918
http://www.dnrc.mt.gov

1424 9TH AVENUE PO BOX 201601 HELENA, MONTANA 59620-1601

Cover Letter

July 25, 2012

TO: Governor's Office, Vivian Hammill, Rm 204, State Capitol, PO Box 200801, Helena, MT 59620 Environmental Quality Council, Capitol Building, Room 106, P.O Box 201704, Helena, MT 59620 Dept. of Environmental Quality, Metcalf Building, P.O. Box 200901, Helena, MT 59620-0901 Director's Office

Dept. of Natural Resources and Conservation, 1625 11th Ave. Helena, MT 59620

Director's Office

Information Services Section

Water Resources Division, 1424 9th Ave., P.O. Box 201601, Helena, MT 59620-1601

Denise Biggar, Water Res. Glasgow Office, 222 6th St. S. PO Box 1269, Glasgow, MT 59230

Montana Department of Fish, Wildlife & Parks, 1420 E. 6th Ave. Helena, MT 59620

Director's Office

Regional Supervisor, Region 6 Office, Route 1 - 4210, Glasgow, MT 59230

Montana Environmental Information Center, P.O. Box 1184, Helena, MT 59624

Montana Audubon Council, P.O. Box 595, Helena, MT 59624

Shirley A. Nelson, 705 5th Ave. SW, Ronan, MT 59864

McCone County Commissioners, Box 199, Circle, MT 59215

Wildlife Federation, P.O. Box 1175, Helena, MT 59624

Trout Unlimited, P.O. Box 7186, Missoula, MT 59807

U.S. Army Corps of Engineers, 10 W. 15th St. Suite 2200, Helena, MT 59626

U.S. Fish & Wildlife Service, MT Field Office, 100 N. Park Ave. Helena, MT 59601

Ladies and Gentlemen:

The enclosed Environmental Assessment (EA) has been prepared for the Sehm Reservoir property easement release and is submitted for your consideration. Comments on the proposed action will be accepted until 5:00 p.m., Monday August 6th, 2012. Comments can be mailed to the address listed on the bottom of page 18 of the EA. Please feel free to contact me at (406) 444-6622 (e-mail jdomino@state.mt.us) should you have any questions or comments. Copies of the EA are available upon request. Thank you.

Sincerely,

James P. Domino

Environmental Science Specialist

James P Domino

State Water Projects Bureau

DRAFT

MEPA ENVIRONMENTAL ASSESSMENT

Part I. Proposed Action Description

- 1. Type of Proposed State Action
- 2. Agency Authority for the Proposed Action

Owner: MT Dept. of Natural Resources and Conservation; Sec. 85-1-210, 85-1-211, 85-6-109 (5) (1997) MCA.

- 3. Name of Project Sehm Reservoir Easement Release
- 4. Name, Address and Phone Number of Project Sponsor (if other than the agency)

MT. Dept. of Natural Resources & Conservation, 1424 9th Ave., P.O. Box 201601, Helena, MT 59620 – 1601 (406) 444-6646

5. If Applicable:

Estimated Construction/Commencement Date August 1, 2012

Estimated Completion Date August 1, 2012

Current Status of Project Design (% complete) N/A %

6. Location Affected by Proposed Action (county, range and township)

McCone County - Township 23N, Range 48E, Section 31

7. Project Size: Estimate the number of acres that would be directly affected that are currently: (a) Developed: (c) Floodplain.....acres Residential..... acres Industrial..... acres (d) Productive: Open Space/ Irrigated cropland_acres Woodlands / Dry croplandacres Recreation.....acres Forestry acres Rangeland 16.2 acres (b) Wetlands/Riparian Other: acres Areas acres (e)

8. Map/site plan: attach an original 8 1/2" x 11" or larger section of the most recent USGS 7.5' series topographic map showing the location and boundaries of the area that would be affected by the proposed action. A different map scale may be substituted if more appropriate or if required by agency rule. If available, a site plan should also be attached.

Map is attached.

9. Narrative Summary of the Proposed Action or Project including the Benefits and Purpose of the Proposed Action.

The proposed action calls for the release of an easement on 16.2 acres of MT DNRC State Water Projects Bureau property to the current landowner. The property is located in McCone County in Section 31, Township 23 North, Range 48 East. The property consists entirely of rangeland.

The easement for the construction of a reservoir on this property was acquired by the State Water Conservation Board in 1941. The goals of this project were never realized, and the State has had no involvement with this property for many years.

The property is adjacent to a single landowner, Mrs. Shirley Nelson, and does not generate any revenue for the State. The easement release would take place in August of 2012 via quit claim deed.

State involvement in this project is no longer needed, as no public benefits are provided by retaining this easement. The transfer of such properties into private ownership absolves the State of any liability and reduces the State's administrative duties.

10.	Listing of any	other Local	. State or Federa	l agency that has	overlapping	or additional	jurisdiction.
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(a) Permits:		
Agency Name	Permit	Date Filed/#
State Historic Preservation Office	Cultural Clearance	Obtained (reviewed by DNRC
		Archeologist)

10. (Continued)

(b) Funding:

Agency Name Funding Amount

N/A

(c) Other Overlapping or Additional Jurisdictional Responsibilities:

Agency Name Type of Responsibility

N/A

11. List of Agencies Consulted during Preparation of the EA:

MT Natural Heritage Program

State Historic Preservation Office

Part II. Environmental Checklist Review

1. PHYSICAL ENVIRONMENT

	Unknown *	No Significant Impacts	Minor Impacts*	Potentially Significant Impacts*	Can Impacts be Mitigated*	Comment Index
1. LAND RESOURCES		29				
Will the proposed action result in:						
Soil instability or changes in geologic substructure?		X				
b. Disruption, displacement, erosion, compaction, moisture loss, or over-covering of soil which would reduce		Х				Э
c. Destruction, covering or modification of any unique geologic or physical features?		x				
d. Changes in siltation, deposition or erosion patterns that may modify the channel of a river or stream or the bed or shore of a lake?		x				
e. Exposure of people or property to earthquakes, landslides, ground failure, or other natural hazard?		х		,		
f. Other:						

PHYSICAL ENVIRONMENT (Continued)

	Unknown*	No Significant Impacts	Minor Impacts*	Potentially Significant Impacts*	Can Impacts be Mitigated*	Comment Index
2. <u>AIR</u>						
Will the proposed action						4
result in:		×		4 5		
Emission of air pollutants or deterioration of ambient air quality?		^		20		
b. Creation of objectionable odors?		X				
c. Alteration of air movement, moisture, or temperature patterns or any change in climate, either locally or regionally?		X				
d. Adverse effects on vegetation, including crops, due to increased emissions of pollutants?		X		d		~
e. Other:				40		0

	Unknown*	No Significant Impact	Minor Impacts*	Potentially Significant Impacts*	Can Impacts be Mitigated*	Comment Index
3. WATER						
Will the proposed action result in: a. Discharge into surface water or any alteration of surface water quality including but not limited to temperature, dissolved oxygen or turbidity?		x			,	
b. Changes in drainage patterns or the rate and amount of surface runoff?		X				
c. Alteration of the course or magnitude of flood water or other flows?		х			all and a second	3 2
d. Changes in the amount of surface water in any water body or creation of a new water body?		Х				
e. Exposure of people or property to water related hazards such as flooding?		X			a a	
f. Changes in the quality of groundwater? g. Changes in the quantity of groundwater?		X X				
h. Increase in the risk of contamination of surface or groundwater?		x				
i. Violation of the Montana Non-Degradation Statute?		х				
j. Effects on any existing water right or reservation?		x				
k. Effects on other water users as a result of any alteration in surface or groundwater quality?		X	,	3		
I. Effects on other users as a result of any alteration in surface or groundwater quantity?		X				

PHYSICAL ENVIRONMENT (Continued)

	Unknown*	No Significant Impacts	Minor Impacts*	Potentially Significant Impacts*	Can Impacts be mitigated*	Comment Index
4. <u>VEGETATION</u>						
Will the proposed action result in:						-
a. Changes in the diversity, productivity or abundance of plant species (including trees, shrubs, grass, crops, and aquatic plants)?		X				
b. Alteration of a plant community?		х				1
 c. Adverse effects on any unique, rare, threatened, or endangered plant species? 		X			-	4c
d. Reduction in acreage or productivity of any agricultural land?		х				*
e. Establishment or spread of noxious weeds?		X				4e
f. Other:						
					1	1

⁴c.) A file search conducted by the Montana Natural Heritage program indicated no threatened endangered or species of special concern are known to exist in the area.

⁴e.) The proposed property owner would assume all weed control responsibilities since the land would become privately owned.

PHYSICAL ENVIRONMENT (Continued)

IMPACTS

	Unknown*	No Significant Impacts	Minor Impacts*	Potentially Significant Impacts*	Can Impacts be Mitigated*	Comment Index
5. <u>FISH/WILDLIFE</u>						,
Will the proposed action result in:			2			
a. Deterioration of critical fish or wildlife habitat?		x				5a
b. Changes in the diversity or abundance of game animals or bird species?		x				5b
c. Changes in the diversity or abundance of nongame species?		×				5c
d. Introduction of new species into an area?		x				5d
e. Creation of a barrier to the migration or movement of animals?		X	v			5e
f. Adverse effects on any unique, rare, threatened, or endangered species?		х				5f
g. Increase in conditions that stress wildlife populations or limit abundance (including harassment, legal or illegal harvest or other human activity)?		×				5g
h. Other:						

5a-e,g) The MT Department of Fish, Wildlife and Parks and/or the U.S. F&W Service would be included on the EA distribution list. It is anticipated that the land use (range) will not significantly change as a result of this transfer, resulting in no impacts to wildlife resources.

5f.) A file search conducted by the Montana Natural Heritage program indicated no threatened endangered or species of special concern (ssc) are known to exist on the property. The file search identified a species of concern exist outside the property location (approximately 1 mile away - Loggerhead Shrike). It is not anticipated that the easement release will adversely impact this species.

2. <u>HUMAN</u> <u>ENVIRONMENT</u>

ENVINONMENT	Unknown*	No Significant Impacts	Minor Impacts*	Potentially Significant Impacts*	Can Impacts be Mitigated*	Comment Index
6. NOISE/ELECTRICAL EFFECTS						
Will the proposed action result in:						
a. Increases in existing noise levels?		X				
 b. Exposure of people to severe or nuisance noise levels? 		X				
c. Creation of electrostatic or electromagnetic effects that could be detrimental to human health or property?		Х				
d. Interference with radio or television reception and operation?		×				
e. Other:						

(Continuea)	Unknown*	No Significant Impacts	Minor Impacts*	Potentially Significant Impacts*	Can Impacts be Mitigated*	Comment Index
7. LAND USE			*			
Will the proposed action result in:						
a. Alteration of or interference with the productivity or profitability of the existing land use of an area?		х				,
 b. Conflict with a designated natural area or area of unusual scientific or educational importance? 		х				
c. Conflict with any existing land use whose presence would constrain or potentially prohibit the proposed action?		Х				
d. Adverse effects on or relocation of residences?		х				
e. Other:						

(Continued)	Unknown*	No Significant Impacts	Minor Impacts*	Potentially Significant Impacts*	Can Impacts be Mitigated*	Comment Index
8. <u>RISK/HEALTH</u> <u>HAZARDS</u>						
Will the proposed action result in:			*	7		
a. Risk of an explosion or release of hazardous substances (including but not limited to oil, pesticides, chemicals, or radiation) in the event of an accident or other forms of disruption?		X				
b. Affect an existing emergency response or emergency evacuation plan or create a need for a new plan?		X			3	,
c. Creation of any human health hazard or potential hazard?		х				<i>8</i>
d. Other:						

(Continueu)	Unknown*	No Significant Impacts	Minor Impacts*	Potentially Significant Impacts*	Can Impacts be Mitigated*	Comment Index
9. COMMUNITY IMPACTS	1	2				
Will the proposed action result in:						
a. Alteration of the location, distribution, density, or growth rate of the human population of an area?		х				1
b. Alteration of the social structure of a community?		Х		50		
 Alteration of the level or distribution of employment or community or personal income? 		×				
d. Changes in industrial or commercial activity?		Х				
e. Increased traffic hazards or effects on existing transportation facilities or patterns of movement of people and goods? f. Increased government		х				
regulatory restrictions on private property rights?		X				
g. Other:		4				

(Continued)	Unknown*	No Significant Impacts	Minor Impacts*	Potentially Significant Impacts*	Can Impacts be Mitigated*	Comment Index
10. PUBLIC SERVICES/ TAXES/UTILITIES Will the proposed action:						
a. Have an effect upon or result in a need for new or altered governmental services in any of the following areas: fire or police protection, schools,	7	×				
parks/recreational facilities, roads or other public maintenance, water supply, sewer or septic systems, solid waste disposal, health, or other governmental services? If any, specify:		ı				
b. Have an effect upon the local or state tax base and revenues?			x			10b
c. Result in a need for new facilities or substantial alterations of any of the following utilities: electric power, natural gas, other fuel supply or distribution systems, or communications?		х				
d. Result in increased use of any energy source?		х	8			
e. Other:		7.0				

¹⁰ b.) The local tax base would benefit by the transfer of the property into private ownership.

(Continued)						
	Unknown*	No Significant Impacts	Minor Impacts*	Potentially Significant Impacts*	Can Impacts be Mitigated*	Comment Index
11. AESTHETICS/ RECREATION	,		s			,
Will the proposed action result in:						
a. Alteration of any scenic vista or creation of an aesthetically offensive site or effect that is open to public view?		X	,			e e
b. Alteration of the aesthetic character of a community or neighborhood?		x				
 c. Alteration of the quality or quantity of recreational opportunities and settings? 		х	5	*		w .
d. Other:				,		

IMPACTS

HUMAN ENVIRONMENT (Continued)

(Common)	Unknown*	No Significant Impacts	Minor Impacts*	Potentially Significant Impacts*	Can Impacts be Mitigated*	Comment Index
12. CULTURAL/ HISTORICAL RESOURCES						
Will the proposed action result in:						
a. Destruction or alteration of any site, structure or object of prehistoric, historic, or paleontological importance?	Х					12a
b. Physical change that would affect unique cultural values?	х					12b
c. Effects on existing religious or sacred uses of a site or area?	X					12c
d. Other:						

¹² a, b & c) An assessment on potential impacts to cultural resources has be completed by the State Historic Preservation Office (SHPO) and the DNRC. The DNRC has no record of cultural or paleontologic resources on this tract of land. Because it has been cultivated or disturbed by the meandering creek, the potential for such resources to exist there is extremely low.

3. <u>SIGNIFICANCE</u> <u>CRITERIA</u>

CRITERIA	Unknown*	No Significant Impacts	Minor Impacts*	Potentially Significant Impacts*	Can Impacts be Mitigated*	Comment Index
13. <u>SUMMARY</u> <u>EVALUATION OF</u> <u>SIGNIFICANCE</u>						
Will the proposed action, considered as a whole:						
a. Have impacts that are individually limited, but cumulatively considerable? (A project or program may result in impacts on two or more separate resources which create a significant effect when considered together or in total.)		X				
b. Involve potential risks or adverse effects which are uncertain but extremely hazardous if they were to occur?		×			2	
c. Potentially conflict with the substantive requirements of any local, state, or federal law, regulation, standard or formal plan?		x				
d. Establish a precedent or likelihood that future actions with significant environmental impacts will be proposed?		X				
e. Generate substantial debate or controversy about the nature of the impacts that would be created?		X				
f. Other:						*

Part III. Alternatives and Evaluation

- 1. Description and analysis of reasonable alternatives (including the no action alternative) to the proposed action whenever alternatives are reasonably available and prudent to consider and a discussion of how the alternatives would be implemented:
- A. No action Would result in continued State liability for the property and continue the need for administrative oversight.
- B. Proceed as planned with the project This will have the beneficial effects of eliminating the State's liability and administrative oversight of the property and increasing the local tax base by the property being in private ownership.
- 2. Evaluation and listing of mitigation, stipulation, or other control measures enforceable by the agency or another government agency:

The easement release will have the beneficial impact of increasing the local government tax base.

3. Based on the significance criteria evaluated in this EA, is an EIS required? YES / NO If an EIS is not required, explain why.

The EA is the appropriate level of analysis for this proposed action.

The EA is the appropriate level of analysis for this proposed action because of the lack of any impacts associated with the easement release, and the beneficial outcome in allowing the State to absolve itself of the liability and administrative oversight responsibilities for this property.

4. Describe the level of public involvement for this project if any and, given the complexity and the seriousness of the environmental issues associated with the proposed action, is the level of public involvement appropriate under the circumstances?

The appropriate level of public involvement for this proposal is the distribution of the EA to those agencies, entities and individuals listed on the cover page. This is an appropriate level of public involvement considering the minor, non-significant impacts of the environmental issues associated with the proposed action.

- 5. Duration of comment period if any: Comments on the proposed action will be accepted until 5:00 p.m., Monday August 6th, 2012. Comments should be sent to the mailing address/e-mail address/telephone number listed below. Additional copies of the EA can be obtained from the address listed below.
- 6. Name, title, addresses and telephone number of the Person(s) Responsible for Preparing the EA:

James P. Domino, Environmental Science Specialist, Department of Natural Resources and Conservation, Water Resources Division, State Water Projects Bureau, 1424 9th Ave., P.O. Box 201601, Helena, MT 59620-1601, (406) 444-6622. e-mail jdomino@mt.gov

Part IV. Narrative Evaluation and Comment

The easement release as proposed will not have any significant impacts. The public benefits of eliminating the State's liability and administrative oversight responsibilities and the increase in the local tax base resulting from the transfer of the property to private ownership are the main benefits of this action.

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION



BRIAN SCHWEITZER GOVERNOR DIRECTOR'S OFFICE (406) 444-2074 TELEFAX NUMBER (406) 444-2684

state of Montana

WATER RESOURCES DIVISION (406) 444-6601 TELEFAX NUMBERS (406) 444-0533 / (406) 444-5918 http://www.dnrc.mt.gov 1424 9TH AVENUE PO BOX 201601 HELENA, MONTANA 59620-1601

Shirley A. Nelson 705 5th Ave. SW Ronan, MT. 59864 June 12, 2012

Dear Ms Nelson,

The Department of Natural Resources and Conservation (Department) is contacting you regarding the Sehm reservoir constructed by the State of Montana in McCone County. The goal of the project was never realized, and the State has had no involvement with the project for many years.

In 1941, Thore Sehm granted an easement deed to the State on 16.2 acres for a portion of the reservoirs land requirement (see attachment). The easement deed contains a reversionary clause which permits the State to terminate its involvement in the project and convey all rights back to the original owners. Courthouse research indicates that you are the successor of the property originally owned by Sehm.

The Department is desirous to absolve itself of any liabilities and rights to the property and proposes to grant you a quitclaim deed for the 16.2 acres at no cost. I will be contacting you in the near future to further discuss this issue. If you have any immediate questions or concerns regarding this action, please feel free to contact me at 406-444-6655.

Sincerely,

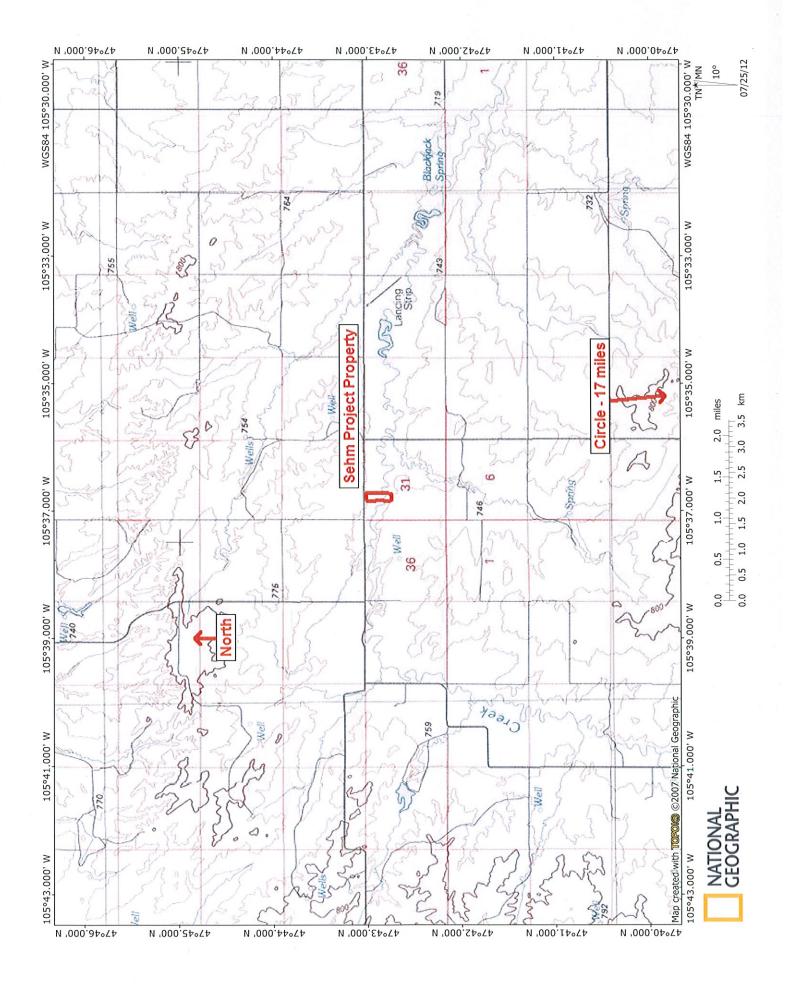
Tim Kuehn Land Manager

cc: Kevin Smith- Bureau Chief

Tim Davis- Division Administrator

<i>H</i>
THIS INDENTURE, made this 17 day of 1941, between of the first part, and the STATE WATER CONSERVATION BOARD of the State of Montara (hereinafter called the Board), party of the Second part, WITNESSETH, that the
said part of the first part, for and in consideration of the privileges and benefits to accrue, do hereby grant, bargain and sell unto the party of the
second part and to its successors and assigns as and for a site for a reservoid or a right-of-way for canals or ditches and for the construction, maintenance, operation and use of said reservoir or canals or ditches, the following described by the said reservoir or canals or ditches, the following described by the said reservoir or canals or ditches, the following described by the said reservoir or canals or ditches, the following described by the said reservoir or canals or ditches, the following described by the said reservoir or canals or ditches, the following described by the said reservoir or canals or ditches, the following described by the said reservoir or canals or ditches, the following described by the said reservoir or canals or ditches, the following described by the said reservoir or canals or ditches, the following described by the said reservoir or canals or ditches, the following described by the said reservoir or canals or ditches, the said reservoir or canals or disches the said reservoir or canals or
cribed real estate, situated in the County of McCore, Montana, to-will A tract of land beginning at a point 380.0 feet South of the North Quarter Corner of
Section 31, T. 23 N. R. 48 E., Mc Cone County, Montana. Thence South 1350.0 Feet, thence East 430.0 Feet, thence North 1350.0 Feet, thence West 430.0 Feet to the place of beginning containing 13.3 acres all lying and being in the Want Mark Section 31, T. 23 N. R. 48 E., ALSO
A strip of land 25.0 Feet wide on each side of the following described centerline. Beginning at a point 938.0 Feet South and 2210.0 Feet West of the Northeast Corner of Section 31, T. 23 N. R. 48 E., Mc Cone County, Montana, thence South 71 53' East 322.0 Feet, thence North 48° 32' East 532.0 Feet, thence North 89° 50' East 298.0 Feet, thence North 79° 41' Fast 500.0 Feet, thence South 74 56' East 195.0 Feet, thence South 62° 12' East 200.0 Feet, thence South 47° 36' East 295.0 Feet, thence South 58° 41' East 156.0 Feet, containing 2.9 acres, all lying and being in N2NE2, Section 31, T. 23 N. R. 48 E., Mc Cone County, Montana.
Montana. Party of the second Part agrees that there will be a crossing provided near The part Y of the first part does also grant, bargain and sell unto
Board the right to use any natural drainage channel or water course, or to the struct, maintain and operate a ditch to or from said reservoir for the converge once of water impounded or to be impounded in said reservoir to such place of use as the Board may determine, together with the right at all times freely to pass over and across the lands of the party of the first part to and from said reservoir site, drainage channel, water course and/or ditch for all purposes in this document heretofore mentioned.
The part y of the first part hereby waives and releases the STATE WATER CONSERVATION FOARD from any and all claims, action and causes of action for damaged that may arise and accrue by reason of injury to the property of the part of the first part, real or personal, caused by or resulting from the construction, maintenance, operation and use of said reservoir, canal, or ditch. The Board may at any time, in its discretion, abandon said reservoir, canal or ditch, provided, however, such abandonment shall be expressed in writing and upon such abandonment the property and all rights hereby conveyed shall revert to the part y of the first part, heirs, executors, administrators and assists.
IN WITNESS WHEREOF, the part y of the first part has hereunto set hand the day and year first above written.
STATE OF MONTANA) SE.
COUNTY OF Malare)
On this // day of
that he executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official terial Seal, the day and year first above written.
Malin CLERK & RECORDER
McCONE COUNTY Montana
My Commission expires Deputy
e de la company de la comp La company de la company d La company de la company d

File No
Doc. No. 76781
EASEMENT DEED
THORE SEM
то
STATE WATER CONSERVATION BOARD
Section of the Control of the Contro
STATE OF MONTANA. COUNTY OF McCONE, ss.
The within instrument was filed for record on
JUNE 17, 1941 at 11:52
o'clock
Book 16 of Deeds page 245 & 246 Incl.
Hanley Maliner County Clerk and Recorder
By CANLING Deputy
Fee None Paid
Indexed Recorded EA
Compared Return to
Representative of Board









S. Nelson property

Printed: Jun 19, 2012